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INFO RUEHXQ/ALL EUROPEAN UNION POST COLLECTIVE PRIORITY
RUEHOT/AMEMBASSY OTTAWA PRIORITY 2027
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STATE PASS USTR FOR DWOSKIN, DONNELLY, ERRION
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USDOC FOR 4231/IEP/EUR/JBROUGH AND MEDWARDS

E.O. 12958: N/A

TAGS: KIPR ETRD WTO RS

SUBJECT: RUSSIA IPR: PART IV OF CIVIL CODE ADVANCES

REF: MOSCOW 012158

¶1. (U) This message is sensitive but unclassified and is not intended for Internet distribution.

¶2. (SBU) Summary: The State Duma passed Part IV of the Civil Code in its second reading on November 8. The third and final reading of the law is likely to take place within the next ten days. At the urging of the Ministry of Economic Development and Trade (MEDT), the Duma on November 7 accepted additional language addressing USG concerns. In a departure from usual practice, the Duma is likely to consider further substantive changes prior to the third reading in order to bring the draft law into closer compliance with WTO TRIPS and WIPO treaties. End Summary.

¶3. (SBU) As reported reftel, the Part IV text that passed the second reading yesterday contains approximately 300 amendments, including some 20 USG-proposed changes. In addition, MEDT, at Minister Gref's direction, has actively intervened in the last week to address USG concerns, convincing the Duma to delay the second reading for five days from November 3 to allow additional input from the USG and the European Union.

¶4. (SBU) On November 7, Post passed additional USTR comments to MEDT, some of which MEDT and Duma deputy Aleksei Likhachev used to propose last minute amendments. Post also participated in a November 7 Duma meeting to discuss these new amendments, during which the Part IV drafters appeared to accept language: 1) clarifying the scope of rights subject to collective administration; and 2) providing the ability for a holder of a prior trademark to contest the registration of a confusingly similar designation of origin.

¶5. (U) The third and final reading of the draft legislation will likely take place in ten days. While only technical, rather than substantive, changes are usually made between the second and third readings, MEDT has indicated that in this case the Duma might consider additional substantive changes in order to bring the text into closer compliance with WTO and international IP norms.

¶6. (SBU) In this regard, the drafters have left open the possibility of further addressing the following USG suggestions: 1) adding the six criteria from WIPO's Joint Recommendation regarding generally-known trademarks; 2)

limiting exceptions to rightholders' ability to demand compensation for IP infringements; and 3) bringing language on seizure of equipment used in IP infringement in line with TRIPS provisions. Another Duma meeting to discuss possible edits will likely take place on November 15 or 16.

¶7. (SBU) Post is seeking the latest version of Part IV to confirm that the draft law contains some of the changes sought by the USG, and will transmit the latest draft to Washington. We will continue to press the GOR and the Duma to address remaining USG concerns.

BURNS